

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 1533 (S/S) of 2007

Hari Datt
S/o Late Govind Ballabh
R/o Village Bhet, P.O. Chhanagolu
Tehsil Ranikhet, District Almora.

.....Petitioner

Versus

1. Union of India, through Secretary
Ministry of Defense, New Delhi.
2. The Engineer in Chief (Branch)
Army Head Quarters, Kashmir House
D.H.Q.P.O. New Delhi-110011.
3. The Chief Engineer Bareilly Zone
Sarvatra Bhawan, Station Road
Bareilly Cantt, 243001.
4. Garrison Engineer (MES)
Ranikhet, District Almora.

.....Respondents

Shri B.M. Pingal, learned counsel for the petitioner.
Shri N.S. Pundir, learned Standing Counsel (Central Govt.) for the respondents.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the parties.

2. By means of this writ petition, the petitioner has sought following reliefs:-

(1) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 09.07.2007 passed by respondent No. 3 (contained in annexure no. 2 of the writ petition).

(2) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents to consider the appointment of the petitioner on the suitable post in the department on the compassionate ground.

(3) Issue any writ order or direction which this Hon'ble court may deem fit and proper in the circumstances of the case, may be passed in favour of the petitioner.

(4) Award the cost of the writ petition to the petitioner.

3. In the earlier round of litigation a writ petition No. 196 (S/S) of 2004, was filed by the same petitioner, which was decided by this Court on merits on 03.03.2006, directing the respondents to consider the case of the petitioner. In compliance of said order, the impugned order dated 09.07.2007 (copy annexure-2 to the writ petition) was passed by the authority concerned. The relevant last but one para is being reproduced below:-

“Your name for compassionate appointment in Gp “D” post was considered by a Board of Officers quarterly 04 times from QE Jun 2006 to Mar 2007 alongwith other candidates and you obtained marks in all the boards and stand at Ser. No. 21, 23, 24 and 23 in order of merit in

respective Board of this Zone. It is further intimated to you that relative merit of individuals at Zone level may further go down during compilation of boards of all zones at Command level. Since only 04 vacancies were released for compassionate appointment in the whole Command and due to more deserving cases, who are in higher in merit than you as such, your case was not recommended by the Board of officers for appointment on compassionate grounds due to lack of merit. In view of this, competent authority is of the view that your case does not deserve employment assistance on compassionate grounds. Moreover, the need for immediate assistance by way of compassionate employment to tide over the emergency and crisis is lacking in your case as the death of the Govt. servant took place on 03 Dec 1997 i.e. approx. 10 years ago. It is also intimated to you that your case do not come in the purview of policy guidelines issued vide Govt. of India, DOP&T letter No. 14014/19/2003-Estt (D) dt 05 May 2003 as the death of your father took place more than 03 years back.”

4. In view of the reasons, quoted above, from the impugned order, there appears no force in the present writ petition. Therefore, the writ petition

is liable to be dismissed. The writ petition is dismissed in limine.

Dt. 12.10.2007
S

(Prafulla C. Pant, J.)